

## **REMARKS**

### **Amendments**

Claims 1, 7, 30, 33, 71, 101, and 102 are amended to replace “alkyl ether” with alkoxyalkyl, to replace “hydroxamic acid” with -C(O)-NHOH, and/or to replace “carboxamide” with -C(O)-NH<sub>2</sub>, for purposes of furthering prosecution.

Claim 71 is also amended to recite a 6-*N*-R<sup>1</sup>-2-CF<sub>3</sub>-substituted adenine starting material, rather than a 6-*N*-R<sup>1</sup>-9-CF<sub>3</sub>-substituted adenine, pursuant to the suggestion by the Examiner.

Further, method claims 68, 70, 75, 78, 81, 83-93 and 98 are cancelled. Applicants will pursue these claims in a separate application.

### **Rejection under 35 USC 103(a) in view of Kelley et al. (1990)**

In the Office Action of July 11, 2006, claims 1, 3-4, 6, 10, 16, 17, 21, 27-32, 60, 61, 68, 70 and 94 are rejected as allegedly being obvious in view of the 1990 article by Kelley et al. This rejection is again respectfully traversed.

In the rejection the Examiner initially refers to compound 2 of Kelley et al., 6-methylamino-9-(4-methylbenzyl)-2-trifluoromethylpurine and argues that this compound renders the corresponding 6-ethylamino compound obvious based on homology. However, as noted previously, the claims do not encompass compound 2 of Kelley et al., nor do they encompass the corresponding ethylamino compound. In compound 2 and the corresponding ethylamino compound, the compound is substituted in the 9-position by methylbenzyl. Compare proviso (a) of claim 1.

In view of the above remarks, it is respectfully submitted that Kelley et al. fails to render obvious applicants' claimed invention. Withdrawal of the rejection is respectfully requested.

### **Rejection under 35 USC 103(a) in view of Bourguignon et al.**

Claims 1, 3, 6, 10, 16, 17, 21, 27-32, 35, 60, 61 and 94 are rejected as allegedly being obvious in view of the article by Bourguignon et al. This rejection is again respectfully traversed.

In compound 6i of Bourguignon et al.,  $\text{NR}_1\text{R}_2$  is amino,  $-\text{CH}_2\text{-R}$  is **benzyl**, and  $\text{R}_3$  is  $\text{CF}_3$ . The Examiner argues that this compound renders obvious the corresponding **dimethylbenzyl** compounds based on homology. However, compound 6i and the corresponding dimethylbenzyl compound are clearly **not adjacent homologs**. The rejection sets forth no rationale as to why the asserted rule of homology should extend beyond adjacent homologs.

It is further alleged that compound 6i renders obvious the chain homolog where  $-\text{CH}_2\text{-R}$  is **phenpropyl**, rather than **benzyl**. Here again, compound 6i and the corresponding phenpropyl compound are clearly not adjacent homologs. The rejection sets forth no rationale as to why the asserted rule of homology should extend beyond adjacent homologs.

In view of the above remarks, it is respectfully submitted that Bourguignon et al. fails to render obvious applicants' claimed invention. Withdrawal of the rejection is respectfully requested.

**Obviousness-Type Double Patenting Rejection in view of Serial No. 10/636,996**

Claims 1-3, 6-36, 38-42, 46-48, 50, 51, 54, 56, 57, 59-61, 68, 70, 72, 73, and 80-82 are rejected as allegedly being obvious in view of "claim 1 and others" of Serial No. 10/636,996. This rejection is respectfully traversed.

The Examiner argues that the compounds of applicants' claims that contain a 6-monomethylamino group are rendered obvious by the claims of Serial No. 10/636,996 that encompass compounds having a 6-dimethylamino group. Applicants disagree.

Beyond mere assertion, the rejection fails to establish that a monomethylamino group is rendered obvious by a 6-dimethylamino. The rejection does not cite any case where a court held a monomethylamino and a dimethylamino to be adjacent homologs, nor does the rejection set forth any scientific definition that holds that monomethylamino and dimethylamino are adjacent homologs. Further, the rejection fails to set forth any motivation that would lead one of ordinary skill in the art to modify a dimethylamino group to form a monomethylamino group, especially in the context of the compounds of the claims of Serial No. 10/636,996. Withdrawal of the rejection is respectfully requested.

**Rejection under 35 USC 112, second paragraph**

Claims 1-5, 16-29, 33, 34, 38-42, 46-48, 50, 51, 54, 56, 57, 59-61, 68, 70, 71, and 80-82 are rejected on grounds of indefiniteness. This rejection is respectfully traversed.

As noted above, claims 1, 7, 30, 33, 71, 101, and 102 are amended to replace "alkyl ether" alkoxyalkyl, to replace "hydroxamic acid" with -C(O)-NHOH, and/or to replace "carboxamide" with -C(O)-NH<sub>2</sub>. Withdrawal of the rejection is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



---

Brion P. Heaney (Reg. No. 32,542)

Attorney for Applicant(s)

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.

Arlington Courthouse Plaza I, Suite 1400

2200 Clarendon Boulevard

Arlington, Virginia 22201

(703) 812-5308 [Direct Dial]

(703) 243-6410 [Facsimile]

Internet Address: [heaney@mwzb.com](mailto:heaney@mwzb.com)

Filed: November 27, 2006